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EXTRAORDINARY

PART II—Section 3

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NO. 427] NEW DELHI, WEDNESDAY SEPTEMBER 4, 1957/BHADRA 13, 1879

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 2nd September 1957

S.R.O. 2854.—Whereas the election of Shri Parvatha Gurraju, as member of the Legislative Assembly of the State of Andhra Pradesh, from the Prathipadu constituency has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951, (XLIII of 1951) by Shri Yellapu Narasarao S/o Shri Veeraswamy, Landlord, Kirlampudi;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the said Act, for the trial of the said Election Petition, has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL AT RAJAHMUNDRY (ANDHRA)

Thursday, the 22nd day of August 1957

PRESENT

Sri T. H. M. Sadasivayya, M.A., B.L., Chairman.

Sri C. Narasimhacharyulu, B.A., M.L., Judicial Member.

Sri M. Sitharamayya, B.A., B.L., Advocate Member.

ELECTION PETITION No. 11 of 1955

(Prathipadu Assembly Constituency, East Godavari District).

Between:—

Sri Yellapu Narasarao s/o Veeraswamy, 32 years, Gavara, Landlord, Kirlampudi—*Petitioner.*

and

1. Sri Parvatha Gurraju, s/o Satyanarayana Murty, 40 years, Telaga, Landlord, Sankhavaram.
2. Sri Yenumula Venkanna Dora, s/o Latchanna Dora, 35 years, Vantarlu, Advocate, Suryaraopeta, Kakinada.
3. Sri Vizarsu Venkataramana Seshagirirao, s/o Ramiah Pantulu, 35 years, Brahmin, Inamdar, Bhupalapatnam, Geddnapalli P.O.

4. Sri Gudala Chitti Babu, s/o Perumallayya, 45 years, Harijan, Chitrada P.O.
5. Sri Dendukuri Venkata Subbaraju, s/o Venkatapathiraju, 30 years, Kshatriya, cultivation, Bhupalapatnam, Geddnapalli P.O.—*Respondents*.

Petition dated 11th June 1955 under s. 81 of the Representation of the People Act (XLIII of 1951) praying to declare that the election of the 1st respondent who has been declared as returned candidate to Prathipadu Assembly constituency is void, and that the 2nd respondent has been duly elected as a returned candidate to the Prathipadu Assembly constituency and to pass such other orders as in the circumstances might be deemed just and proper and to award costs to the petitioner.

This petition coming on for final hearing on this day before this Tribunal, upon perusing the petition, list of particulars filed with the petition, counters of respondents 1 and 2 and other material papers on record in the presence of Sri D. V. Sastry, advocate for the 1st respondent; the petitioner and his counsel Sri V. Krishnamurthy, Pleader and Messrs. E. L. Narasimham and E. Subbiah Sastry, advocates, being absent; the 2nd respondent being absent and having been set *ex parte* and respondents 3 to 5 having allowed the petition to proceed *ex parte*, this Tribunal delivered the following:

JUDGMENT

This is a petition filed under s. 81 of the Representation of the People Act (XLIII of 1951) by Sri Yellapu Narasarao, who was an elector with No. 313 in Block No. 14 in the village of Kirlampudi of the Prathipadu constituency. The petitioner was entitled to vote as he alleges in his petition that he actually voted on 18th February 1955. The five respondents herein were duly nominated as candidates for the single member constituency of Prathipadu in the East Godavari District for the Andhra Legislative Assembly. The 5th respondent withdrew from the contest before the time for withdrawal expired, and all the other four respondents contested the election, which was held on 18th February 1955. The 1st respondent Sri Parvatha Gurraju of Sankhavaram was duly declared elected and the result was gazetted in the Andhra Gazette Extraordinary dated 8th March 1955. The petitioner by this petition seeks to set aside the election and the declaration made on various grounds set out in his petition.

2. Respondents 3 to 5 did not participate in this proceeding. The 2nd respondent, who at first chose to sail with the petitioner, did not choose to appear before the Tribunal on 12th July 1957 or on 9th August 1957 or on 10th August 1957 or even today. He is, therefore, set *ex parte*.

3. The petitioner or his counsel did not appear before the Tribunal on 12th July 1957. He was, however, given an opportunity to get ready for the adjournment on 9th August 1957. On that day an application was filed on his behalf for an adjournment, pleading that he was indisposed. Time was granted till 10th August 1957 to produce the witnesses. Petitioner was not ready even on that day. The proceedings were posted to this date peremptorily and both sides were directed to be ready with their witnesses for this sitting. But the petitioner did not appear even today. His counsel also did not appear. No steps were taken by the petitioner for any of the hearings.

4. The following issues reflect the contentions of the petitioner and respondents 1 and 2:

1. Whether the 1st respondent obtained the support and help of the Village Munsifs of Sankhavaram, Nellipudi, Uttar Kanchi and Kirlampudi in furtherance of his election prospects and whether they exercised any undue influence over the voters?
2. Whether the motor lorry ADE. 157 belonging to Sri P. Kondalarao, brother of the 1st respondent, was used by the 1st respondent or his men for conveying voters to several places in the constituency?
3. Whether motor lorries bearing Nos. ADE. 235, 861, 787, 79, 1144, 156 and 501 were procured by the 1st respondent or his agents for the conveyance of electors to and from the polling stations?
4. Whether 1st respondent and his agents, viz., Y. Satyanarayana, P. Kondalarao, R. Ramanna and M. Suryarao spent large amounts on the eve of the election for bribing the voters?
5. Whether the return of election expenses is not in proper form and whether the particulars therein are incorrect?

6. Whether the pleas raised in issues 4 and 5 are bad for want of full details, as required under s. 83(2) of the Representation of the People Act?
7. Whether the election is materially affected by reason of all or any of the allegations mentioned in the petition?
8. Whether for all or any of the reasons mentioned in the petition the declaration of the result in favour of the 1st respondent is void?
9. Whether the 2nd respondent is entitled to be declared to have been elected?

5. *Issues 1 to 5.*—These are the material issues in the case. They raise questions of fact. The initial burden of proof is on the petitioner. The petitioner has not discharged the onus of proof cast on him. These issues are found against him.

6. *Issue 9.*—This issue was raised at the instance of the 2nd respondent, who seeks for a declaration that he has been duly elected. The 2nd respondent sailed with the petitioner. The main issues have been held against the petitioner. Subsequently the 2nd respondent allowed the petition to proceed *ex parte*. This issue is held against the petitioner and the 2nd respondent.

7. *Issues 6, 7 and 8.*—In view of the finding on the material issues, these issues do not arise.

8. In the result, the petition is dismissed with costs, which we assess at Rs. 250, including the counsel's fee, payable by the petitioner to the 1st respondent. The 2nd respondent will bear his own costs.

Pronounced in open Court, by dictation to shorthandwriter, this 22nd day of August 1957.

(Sd.) T. H. M. SADASIVAYYA,
Chairman.

(Sd.) C. NARASIMHACHARYULU,
Judicial Member.

(Sd.) M. SITHARAMAYYA,
Advocate Member.

No oral or documentary evidence was adduced on either side.

(Sd.) T. H. M. SADASIVAYYA,
Chairman.

(Sd.) C. NARASIMHACHARYULU,
Judicial Member.

(Sd.) M. SITHARAMAYYA,
Advocate Member.

[No. 82/11/55.]

By Order,
DIN DAYAL, Under Secy.

